IN THE HIGH COURT OF BOMBAY AT GOA
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FIRST APPEAL NO. 24 OF 1998

1. State of Goa,
   through Dy. Collector
   (Dev) & LAO, Panaji,
   Goa 403 001, and

2. The Chief Town
   Planner, Town &
   Country Planning Dept.,
   Government of Goa,
   Panaji, Goa 403 001. ... Appellants.

Versus

Smt. Livramenta Eugenia
Viegas, Viegas House,
Carazalem, Goa (deceased),
represented by L.R.s:-

a) Arthur Viegas,

b) Andre Viegas,

c) Miss Maria Viegas,

d) Miss Venessa
   Viegas,

e) Mrs. Valerie
   Viegas D'Abreo, and

f) Mrs. Carol Viegas
   Lafferty. ... Respondents.

Shri H. R. Bharne, Government Advocate for the appellants.

Shri A. R. Kantak, advocate for the respondents.

CORAM : S. A. BOBDE, J.

DATE : 15th July, 2004

ORAL JUDGMENT

This Appeal by the State is preferred against the Judgment dated 3rd April, 1997, of the District Judge, Panaji, in reference under Section 18 of the Land Acquisition Act, 1894. Under a Notification dated 18th February, 1982, 6134 sq. mts. of the respondents' land were proposed to be

acquired . Upon acquisition, the Land Acquisition Officer offered a rate of Rs.150/- per sq. mt. to the respondents. Dissatisfied, he sought a reference to the Court. The Court upon hearing the evidence adduced before it, enhanced the compensation to Rs.204/- per sq. mt.

2. The acquired land is situated on the Dona Paula-Miramar Road, which is locally known as the new road. The road passes along the Mandovi river and the land in question is situated near the road. Before the Court the respondent examined four witnesses; himself as A.W.1, A.W.2, an Engineer and an expert valuer. The respondent also examined two witnesses, A.W.3 and A.W.4 in order to prove two sale deeds.

3. The Court set out the various transfers of comparable lands in the vicinity in a tabular form as follows:

Exh.No.	Date of Sale/Agree-ment	Area	Rate per m2	Nature of plot	Distance from SP
A.W.1/D	26.4.82	504	257.93	Developed	1.5 kms.or 2 kms.
A.W.1/E	18.6.82 (Agreement of sale)	2248	387	Undevelop-ed	1.5 kms.or 2.3 kms.
A.W.2/C	18.2.82 Sec.4 Noti-fication	2335	230	Under dev-elopment	150 mts.
A-1	"	1156	240	Undevelop-ed	1/2 km.

4. Admittedly, the last two instances, i.e. A.W.2/C and A-1 pertain to compulsory acquisition of lands and the rates shown therein are the rates of compensation awarded to the claimants there. After discarding the first three instances, the Court eventually took into account Exh. A-1, which was an instance of compulsory acquisition of land in which the claimant was awarded a sum of Rs.240/- per sq. mt. That land is about 1/2 km. from the acquired land. Shri Bharne, learned Government Advocate for the appellants submitted that the State had filed an appeal against the Award in respect of the land A-1, which was about Rs.240/- per sq. mt. However, the matter was settled in the course of the Lok Adalat and the compensation therein was reduced to Rs.195/- per sq. mt. However, the learned counsel fairly accepted the fact that a decision of the Lok Adalat does not have the same binding effect as a decision of a court of law.

5. Shri Bharne, learned Government Advocate however, submitted that that Award in respect of land A-1 may be looked into since it has certain apparent effects. Therefore, he invited the attention of this Court to the said Award. A perusal of that Award in respect of land A-1 does not show any serious apparent defect or error. By that Award, which is on record, the Court relied on another sale instance dated 19th February, 1981, where the land was sold at the rate of Rs.200/- per sq. mt. This sale instance was about one year prior to the publication of Section 4 Notification. The Court added 10% increase per annum and thereby arrived at the rate

of Rs.220/- per sq. mt. Thereafter, the Court added an amount of 20% to Rs.220/- on account of the proximity of the land to the Miramar circle and another 20% on account of sea view, since the land had such a sea view. Since the land was abutted by two roads, another 10% was added and the Court arrived at compensation of Rs.330/- per sq.mt. However, since the land was low-lying agricultural land, the Court deducted an amount of Rs.90/- from the price for filling up of the land and for providing internal roads, light, water, etc. and eventually arrived at the rate of Rs.240/- per sq. mt. Prima facie, the Award seems to be in accordance with law and appears to be an Award which can be taken as a comparable instance for the purpose of arriving at the market value of the land acquired in this case.

6. Now, in the present case, it must be noted that the Court has not granted the same compensation i.e. compensation at the rate of Rs.240/- per sq. mt. The Court has reduced the rate of compensation on account of certain minus points in the acquired land. The Court has distinguished the land at A-1 from the acquired land since the former was an agricultural plot with a sea view and only about 5 kms. from the Miramar circle, having regard to the fact that the present land did not have a motorable access, but only a pathway, but having regard to the fact that the pathway was about 4 mts. and tarred, the Court deducted 10% from Rs.240/-. Thereupon, the Court has deducted another 5%

because of the distance of the acquired land from Miramar circle. Thus, the Court has deducted 15%, i.e. about Rs.36/- and arrived at the compensation of Rs.204/- per sq. mt. Having regard to the fact that the comparable instance that is taken into account is that of an Award of a Reference Court in respect of a land which is about 300 mts. away from the acquired land and having regard to the deductions that have been made and the reasons thereafter, I am of the view that the Appeal must fail.

7. Shri Bharne, learned Government Advocate for the appellants, submitted that a further deduction ought to have been granted on account of the fact that the acquired land ad measures 1156 sq. mts. and the comparable instance is in respect of 6134 sq. mts. Having regard to the fact that both pieces of land are situated in the same vicinity and are admittedly part of the same urban agglomeration, I am of the view that in the present case the difference is not such as to make an appreciable difference to the rate of compensation that is liable to be awarded.

8. In this view of the matter, the Appeal is dismissed. However, there shall be no order as to costs.

S.A. BOBDE, J.

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